

Decision No. C19-0643

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19M-0415T

IN THE MATTER OF ADJUSTMENT TO THE MONTHLY SURCHARGE FOR PROVIDING
FUNDING TO THE COLORADO TELEPHONE USERS WITH DISABILITIES FUND.

**COMMISSION DECISION INCREASING
THE UNIFORM CHARGE FOR EACH APPLICABLE
ACCESS LINE FROM 4 CENTS PER MONTH TO 6 CENTS
PER MONTH TO SUPPORT THE COLORADO
TELEPHONE USERS WITH DISABILITIES FUND**

Mailed Date: August 2, 2019

Adopted Date: July 17, 2019

I. BY THE COMMISSION

A. Introduction

1. In 2016, the Colorado General Assembly passed House Bill (HB) 16-1414 (the Bill). The Bill expanded the number of customers obligated to pay the Telecommunications Relay Service Surcharge from those customers receiving telecommunications services from voice service providers using traditional wired telephone access lines to also include customers receiving telecommunications services from either wireless or “voice over internet protocol” providers. At that time, it was unknown how much of an increase in revenue could be expected, and the Commission left the surcharge at 5 cents per access line per month.¹

¹ By Decision No. C16-0505 in Proceeding No. 16R-0451T issued June 15, 2016, the Commission adopted Temporary Rules to implement HB 16-1414. The Commission then commenced a Notice of Proposed Rulemaking on June 30, 2016 by Decision No. C16-0591 in Proceeding No. 16R-0497T to consider permanent amendments to the rules. Commissioner Koncilja issued Recommended Decision No. R16-0842 on September 9, 2016, recommending final amendments to the rules, which rules became effective on December 1, 2016.

After more than 12 months of experience with respect to the revenues and statutory distributions and based on the budget and projections developed by Commission Staff (Staff), the Commission concluded that it was appropriate to reduce the surcharge from 5 cents per line to 4 cents per line on March 1, 2018. *See* Decision No. C13-1413 in Proceeding No. 13M-1199T, issued November 8, 2013. This Commission decision also complied with § 24-75-402(2)(a), C.R.S., which establishes a maximum reserve balance for cash funds at 16.5 percent of the amount expended during the fiscal year. Prior to the surcharge reduction, the Telephone Users with Disabilities Fund (TUDF) was projected to exceed the maximum balance. Since the reduction of the surcharge to 4 cents, additional actions and events have taken place that now require an increase of the surcharge to 6 cents beginning October 1, 2019.

B. History of the Fund and Statutory Changes.

2. The Colorado Telecommunications Relay Services for Telephone Users with Disabilities (TRS) was established by the Colorado Legislature (Legislature) in 1989. *See* § 40-17-101, *et seq.*, C.R.S.

3. The legislative declaration amending the statute states that “Telephone users with disabilities constitute a substantial and valuable resource within the United States and the state of Colorado, and this segment of our population needs access to telecommunications facilities in order to be contributing and productive members of our society. The role of telecommunications in our world today is inestimable.” HB 16-1414 at 4.

4. The statute places the jurisdiction for administering the fund and setting the surcharge with the Commission as follows:

- Not to exceed 15 cents per line;
- Reimburse the Commission for its costs;

- Reimburse voice service providers for their administrative cost; and
- Cover the cost of providers rendering the TRS service

5. The statute further establishes these purposes for the fund:

- Reimburse the Department of Revenue for its administrative costs related to prepaid wireless services.
- Cover annual appropriations made pursuant to 40-17-104, to the reading services for the blind cash fund through the State Librarian, as set forth in 24-90-105.5, administered by the Colorado Department of Education.
- Cover annual appropriations made pursuant to 40-17-104, to the Colorado Commission for the deaf and hard of hearing cash fund, as set forth in 26-21-107, administered by the Colorado Department of Human Services.

6. The Commission, in 1994, as amended on September 9, 2016 by Decision No. R16-0842 in Proceeding No. 16R-0497T, adopted Rules Prescribing the Implementation of Article 17 of Title 40, C.R.S. Telecommunications Relay Services for Telephone Users with Disabilities, now codified at 4 *Code of Colorado Regulations* (CCR) 723-2-2820, *et seq.*, of the Commission's Rules Regulating Telecommunications Services and Providers of Telecommunications Services.

7. Pursuant to Rule 4 CCR 723-2-2827(a), the Commission "shall determine, and by appropriate order, impose a uniform charge on each commercial and residential access line in a uniform amount. In order to adjust the uniform charge the Commission requires certain information." Further, Rule 4 CCR 723-2-2827(b) provides:

- (II) The uniform charge imposed pursuant to § 40-17-103(3)(a), C.R.S., shall be billed monthly to each access line provided by each voice service provider.

- (V) The uniform charge shall be listed as a separate item appearing on each customer's monthly billing statement as rendered by each voice service provider. The charge shall be listed as the "Colorado Telecommunications Relay Service Surcharge."

8. Pursuant to Rule 4 CCR 723-2-2827(c)(I)(B), every quarter, each voice service provider shall file with the Commission a completed "Colorado Telecommunications Relay Service Surcharge" form through its E-Filings System. This form is available on the Commission's website at <https://www.colorado.gov/pacific/dora/relaysurcharge>. All surcharge remittances along with the TRS Surcharge form shall be submitted to the TRS custodial receiver directly.

C. Budget Projections

9. The current TRS uniform charge of 4 cents has been in effect since March 1, 2018. *See* Decision No. C13-1413 in Proceeding No. 19M-1199T, issued November 8, 2013. Since the current TRS uniform charge was in effect, certain trends and events have taken place, including an additional \$1,100,000 appropriated to the TUDF. In addition to the increased appropriated funds, the TUDF is exempt until June 30, 2021 from § 24-75-402(2)(a), C.R.S., which establishes a maximum reserve balance for cash funds at 16.5 percent of the amount expended during the fiscal year.

10. Since the surcharge decrease in March 2018, there have been new and increased appropriations from the TUDF for the 2019-2020 fiscal year. These appropriations include an additional \$700,000 appropriated annually to the Commission for the Deaf, Hard of Hearing, and DeafBlind Cash Fund for the Rural Interpreting Services Project, an increase to the Reading Services for the Blind Cash Fund from \$360,000 to \$510,000 annually, and a new appropriation of \$250,000 to the Talking Book Library pursuant to HB 19-1332.

11. Commission rules indicate that it is the obligation of the Commission to adjust the uniform charge, if necessary.

12. Staff has provided a monthly statement of revenues and expenses, including direct and indirect costs, as well as projections for the next 12 months.

13. Considering the current fund balance, revenue, and expenditure projections for Fiscal Year 2019-2020, the Commission finds it necessary and appropriate to increase the TRS uniform charge on each eligible access line beginning October 1, 2019. The current uniform charge of 4 cents per access line per month shall be increased to 6 cents per access line per month in order to pay all direct and indirect expenses, as well as to transfer funds to the appropriate agencies as appropriated by the Legislature pursuant to § 40-17-103, C.R.S., and to maintain a sufficient fund balance. Staff is directed to advise the Commission if there are any substantial changes in either the revenues or the expenditures that might require additional adjustment.

II. ORDER

A. The Commission Orders That:

1. Effective October 1, 2019, the uniform charge imposed upon each telephone access line to fund the Colorado Telecommunications Relay Services for Telephone Users with Disabilities Program is increased from 4 cents per access line per month to 6 cents per access line per month to comply with the requirements of § 40-17-103(3), C.R.S.

2. No later than 30 days after the end of each quarter, each voice service provider shall remit as directed by the Commission, the amount due based on the preceding three months and the completed Colorado Telecommunications Relay Service Surcharge form.

3. The uniform charge of 6 cents per month shall be included in each applicable subscriber's bill as a separate line item and shall be listed as the "Colorado Telecommunications Relay Service Surcharge."

4. Commission Staff is directed to advise the Commission 90 days before the end of each fiscal year as to the status of the fund and the surcharge, including all revenues, expenditures, direct costs, and indirect costs in order for the Commission to determine if additional actions with respect to the surcharge are necessary.

5. The 20-day time period provided for by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration begins on the first day after the mailing of this Decision.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 17, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners